

**SENTENCING STRUCTURE**  
**LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS**  
**OCTOBER 4, 2006**

**A. DIMINUTION OF SENTENCE ELIGIBILITY** –in accordance with DOC REG No. B-04-001

Inmates convicted for a crime committed on or after July 1, 1982, who are released pursuant to diminution of sentence, shall be released as if on parole. (La. R.S. 15:571.A(1).) An inmate may receive double good time retroactive to July 1, 1982, provided he is eligible pursuant to the criteria outlined in **Act 848** of the 1987 Regular Session and the court case of Cox vs. Whitley 6122 So. 2d158 (La.App.1.Cir.1992)

*The commission date of the crime governs eligibility. (See Weaver v. Graham, 450 U.S. 24,29,101 S.Ct. 960, 964 (1981) and State v. Curtis, 363 So.2d 1375)*

**1. 30/30 Rate – WITHOUT EARNING INCENTIVE WAGES**

Inmates who are otherwise eligible may opt to earn a diminution of sentence known as "good time" in lieu of incentive wages. This is typically done at the rate of 30 days for every 30 days in actual custody, including time spent in custody with good behavior for which the inmate is eligible. (La. R.S. 15:571.3B.) This rate applies to inmates convicted of violent and non-violent crimes prior to January 1, 1997, but only to those inmates convicted of a non-violent offense on or after January 1, 1997, or convicted on or after August 15, 2006 (see No. 2 below).

\* Inmates participating in a **Community Resource Center, (a facility designated by the Department to provide housing for inmates to remediate the damage done following a natural disaster or emergency)** may be eligible to earn thirty days of good time in addition to that otherwise authorized by law for every thirty days of service in this program.

**2. 3/17 Rate – VIOLENT CRIMES**

Inmates convicted a first time for a crime of violence as defined in La. R.S. 14:2(13), which is committed on or after January 1, 1997, and who are otherwise eligible to earn good time, shall earn diminution of sentence at a rate of three days for every seventeen days in actual custody, including time spent in custody with good behavior for which the inmate is eligible for jail credit; serves 85%. (La. R.S. 15:571.3B) (**Act 1099** of the 1995 Regular Session).

3. **35/30 – WITHOUT EARNING INCENTIVE WAGES**

The amount of good time allowed for persons convicted of certain offenses on or after August 15, 2006, shall be at the rate of 35 days for every 30 days in actual custody, including the time spent in custody with good behavior pursuant to C.Cr.P. Art 880. Good time at the rate of 35 days for every 30 days in actual custody shall be awarded only in lieu of incentive wages. (Act 572 of the 2006 Regular Session)

4. **Educational Good Time Credits** - in accordance with DOC REG No. B-04-003

Inmates, who are otherwise eligible, may earn educational good time credits up to ten days per month, or 180 total educational good time credits for program participation during their sentence. (La. R.S. 15:828(B)), **(Act 61 of the 2006 Regular Session)**. Inmates who are sentenced for a crime of violence pursuant to La. R.S. 15:571.3B **(Act 1099** of the 1995 Regular Session) are not eligible.

B. **DIMINUTION OF SENTENCE INELIGIBILITY**

1. **HABITUAL FELON CONVICTIONS - COURT ADJUDICATION**

The inmate has been sentenced on the instant offense under the Habitual Offender Law as set forth in La. R.S. 15:529.1, and also meets all of the criteria as set forth in La. R.S. 15:571.3C.

- < Any prior or instant conviction listed in La. R.S. 15:571.3C1 (a) through **(t)** shall be used to meet the criteria as set forth in this section **in accordance with Lonzell Richards vs. Richard Stalder No. 523,455 Section 24, 19<sup>th</sup> JDC, East Baton Rouge Parish, June 2006.**

2. **VIOLENT CRIMES**

- < **First Offense Violent Crimes - Court Discretion**  
The inmate was sentenced for a crime of violence committed on or after August 15, 1995 and the sentencing court denied or placed conditions on eligibility for diminution of sentence. C.Cr.P. Art. 890.1. **(Act 946** of the 1995 Regular Session)
- < **Second Offense Violent Crime - No Court Discretion**  
Diminution of sentence shall not be allowed an inmate in the custody of the Department if the instant offense is a second offense crime of violence as defined by La. R.S. 14:2(13) committed on or

after August 27, 1994, pursuant to La. R.S. 15:571.3B. (**Act 150** of the 1994 2nd Extraordinary Session)

< **Court Designated Violent Crime**

The court can designate whether the crime involved is a crime of violence or an attempted crime of violence as defined or enumerated in La. R.S. 14:2(13). La. Art. 890.1.A (**Act 697** of the 1997 Regular Session). (Regardless if on COV list.)

**NOTE:** *Prior to August 15, 2001, the below crimes were considered a Crime of Violence:*

**14:43.3      Oral Sexual Battery**

**14:43.4      Aggravated Oral Sexual Battery**

**3.      SEX CRIMES**

< **Sex Crime with Court Discretion**

The inmate is serving a sentence for a sex offense which was committed on or after August 27, 1994 and before August 15, 1999 and the sentencing court denied or placed conditions on eligibility for the earning of good time pursuant to La. R.S. 15:537 (**Act 110** of the 1994 3<sup>rd</sup> Extraordinary Session).

< **Sex Crime with No Court Discretion**

The inmate is serving a sentence for a sex offense which was committed on or after August 15, 1999 pursuant to La. R.S. 15:537(A) (**Act 1209** of the 1999 Regular Session). (See attachment #2)

**NOTE:** *Prior to August 15, 2001, the below sex crimes were used to Deny Good Time:*

**14:43.4      Aggravated Oral Sexual Battery**

**14:76          Bigamy**

**14:77          Abetting in Bigamy**

**14:89          Crime Against Nature**

< **Sex Crime Second Offense-Specific Class-No Court Discretion**

The inmate has been convicted two or more times under the laws of this state of any one or more of the following crimes where the instant offense was committed on or after August 27, 1994, pursuant to La. R.S. 15:571.3C(4), (**Act 149** of the 1994 3<sup>rd</sup> Extraordinary Session); or the inmate has been convicted two or more times under the laws of this state, any other state, or the federal government of any one or more of the following crimes or

attempts to commit any of the following crimes where the instant offense was committed on or after August 15, 1999, pursuant to La. R.S. 15:571.3C(4), (**Act 223** of the 1999 Regular Session).

- 1) 14:80 Carnal Knowledge of a juvenile
- 2) 14:81 Indecent behavior with a juvenile
- 3) 14:81.2 Molestation of a juvenile
- 4) 14:78 Incest
- 5) 14:78.1 Aggravated Incest

< **SEX CRIMES COMMITTED ON OR AFTER AUGUST 15, 2006**  
The inmate has been convicted one or more times under the laws of this state, any other state, or the federal government of any one or more of the following crimes or attempts to commit any of the following crimes where the conviction for the instant offense was on or after August 15, 2006, pursuant to Act 572 of the 2006 Regular Session.

- 1) 14:80 Carnal Knowledge of a juvenile
- 2) 14:81 Indecent behavior with a juvenile
- 3) 14:81.2 Molestation of a juvenile
- 4) 14:78 Incest
- 5) 14:78.1 Aggravated Incest

**NOTE:** Sex offenders must have an approved residence plan prior to release on supervision in accordance with R.S. 15:541(14.1), pursuant to Act 26 of the 2006 Regular Session. (See attachment #3)

**4. STALKING**

An inmate who is convicted of a violation of R.S. 14:40.2 (Stalking), and the offense was committed on or after August 15, 1999, shall be prohibited from earning diminution of sentence at the discretion of the trial court, pursuant to La. R.S. 15:571.3C(5). (**Act 963** of the 1999 Regular Session).

**5. LIFE SENTENCE**

Inmates serving life sentences are ineligible to earn good time. **However,** inmates serving life sentences will be credited with good time earned which will be applied toward diminution of their sentences at such time as the life sentence might be commuted to a specific number of years.@ (La. R.S. 15:571.3B.)

6. **JUVENILE LIFE**

Any inmate who was a 14 year old juvenile at the time of the commission of any of the following crimes committed on or after August 27, 1994, AND who was sentenced as an adult under the provisions of La. Children's Code Article 857 shall not be held past his 31<sup>st</sup> birthday on the instant offense for which he was convicted and sentenced: **(Act 15 of the 1994 3<sup>rd</sup> Extraordinary Session, effective August 27, 1994).**

- < First degree Murder
- < Second degree murder
- < Aggravated kidnapping
- < Aggravated Rape
- < Aggravated battery when committed by the discharge of a firearm
- < Armed robbery when committed with a firearm
- < Forcible rape committed upon a child at least two years younger than the rapist **(added by Act 1137 of the 1997 Regular Session effective July 14, 1997).**

7. **MEDICAL PAROLE**

In accordance with La. R.S. 15:574.20(D) the parole term of an inmate released on medical parole shall be for the remainder of the inmate's sentence, without diminution of sentence for good behavior.

C. **FORFEITURE OF GOOD TIME** - In accordance with DOC REG No. B-04-005

1. **ESCAPES**

**Prior to August 30, 1986** - inmates who escape prior to this date and are convicted of escape in a court of law shall be required to forfeit all good time earned on that portion of his sentence served prior to his escape in accordance with La. R.S. 15:571.4B(1) **(Act 502 of the 1979 Regular Session).**

**On or after August 30, 1986** - inmates who escape on or after this date may forfeit good time earned in accordance with Department Regulation No. B-04-005.

**\*\* Pursuant to Tony Chamblee v. Richard Stalder, ET AL First Circuit #2003 CA 0061.**

In this case, La R.S. 15:571.4B(1), (forfeiture of all good time earned on that portion of the sentence served prior to an escape) does not apply. At the time of the escape, inmate Chamblee was housed at the City of Faith work release facility not at a correctional facility or in the custody of a law enforcement officer

or officer of the department. Forfeiture of good time by the Department of Public Safety and Corrections **aspecial court** can only apply to persons who escape from a "Correctional Facility, or from the lawful custody of any law enforcement officer or officer of the department."

On or after **August 15, 2004**, an inmate serving a sentence and participating in a Work Release Program authorized by law, fails to report to or return from his planned employment or other activity under the program may forfeit all good time earned on that portion of his sentence served prior to his escape. **(ACT 43 of the 2004 Regular Session)**

- < Inmates who commit a battery upon an employee of DPS&C or a police officer may be required to forfeit good time earned on that portion of the sentence served prior to committing the battery of such person, up to a maximum of 180 days. **La. R.S. 15:571.4B(3).**
- < Inmates who commit serious rule violations may be required to forfeit up to a maximum of 180 days of good time per offense. **La. R.S. 15:571.4B(4) (Act 980 of the 1995 Regular Session).**

## **2. PAROLE VIOLATORS**

### **Granted Parole before August 15, 1997 for a crime committed after July 26, 1972:**

Parole violators are required to forfeit all good time earned on that portion of the sentence served prior to the granting of parole, up to a maximum of 180 days

### **Granted Parole on or after August 15, 1997:**

An inmate who has been granted regular parole on or after August 15, 1997, should his parole be revoked for any reason, good time earned prior to parole and good time that would have been earned if parole had not been granted will be forfeited (including educational good time), as required by **La. R.S. 15:571.4B(2) (Act 820 of the 1997 State Legislature)** and **La. R.S. 15:574.4(l)(2).**

**Critical comment:** **Offenses committed before July 26, 1972:** Beebe v. Phelps, 650 F.2d 774 ruled that inmates who were serving time for an offense committed before July 26, 1972 and granted parole, will not forfeit any good time should their parole be revoked.

D. **PAROLE ELIGIBILITY** - In accordance with DOC REG No. B-04-004

Critical Comments: *The commission date of the crime governs eligibility. (See Weaver v. Graham, 450 U.S. 24,29,101 S.Ct. 960, 964 (1981) and State v. Curtis, 363 So.2d 1375)*

**NOTE:** Inmates who are serving a term for an offense that was committed on or after July 1, 1982, pursuant to **Act 762** of the 1981 Regular Session will have their parole eligibility dates computed in accordance with their offender classification at the time of that offense.

1. **FIRST OFFENDERS**

Inmates convicted of a first felony offense and who are otherwise eligible for parole, shall be eligible for parole consideration upon serving one-third of the sentence imposed. **La. R.S. 15:574.4A(1).**

2. **SECOND OFFENDERS**

Inmates convicted of a second felony offense and who are otherwise eligible for parole, shall be eligible for parole consideration upon serving one-half of the sentence imposed. **La. R.S. 15:574.4A(1).**

3. **OFFENDER CLASSIFICATION**

Sequential Rule - The number of sequential felonies committed for which an inmate has been convicted. A second offender status can only result from an offense committed after a first conviction, and third offender status can only result from an offense committed after a second conviction

4. **IMPACT PAROLE**

Inmates otherwise eligible for parole, convicted of a non-violent first or second felony offense and committed to the DPS&C, for ten years or less may be eligible for intensive parole supervision upon successful completion of intensive incarceration. **La. R.S. 574.4A(2).**

5. **VIOLENT CRIMES**

Inmates convicted of a crime of violence, which is committed on or after January 1, 1997, and who are otherwise eligible for parole, shall serve at least 85% of their sentence before receiving any parole consideration. **La. R.S. 15:574.4B (Act 1099 of the 1995 Regular Session).**

6. **ACT 790**

Unless eligible for parole at an earlier date, a person sentenced for a term or terms of imprisonment with or without benefit of parole for thirty years or more shall be eligible for parole consideration upon serving twenty years

of the term or terms of imprisonment in actual custody and upon reaching the age of forty-five. This provision shall not apply to a person serving a life sentence unless the sentence has been commuted to a fixed term of years. **La. R.S. 15:574.4A(3)(Act 790 of the 1990 Regular Session)**.

However, a person convicted of a crime of violence committed on or after January 01, 1997 and not otherwise ineligible for parole shall serve at least 85% of the sentence imposed before being eligible for parole under Act 790. (La. R.S. 15:574.4B)

**7. PARDON**

When the Governor (through a commutation of sentence) orders that an inmate is eligible for parole consideration after serving a portion of a sentence, the parole eligibility date shall be computed as specified by the commutation of sentence.

**NOTE:** An inmate who has completed the good time requirements on a non-parolable sentence may be considered eligible for parole on other parolable sentences within the term of incarceration. (See Ronald Glover v. Mary Cockerham, Et al No. 431,819 Division "I" 19th JDC East Baton Rouge Parish ).

**E. PAROLE INELIGIBILITY**

**1. THIRD OFFENDERS**

Inmates convicted of a third or subsequent felony and committed to the DPS&C shall not be eligible for parole. **La. R.S. 15:574.4A(1)**.

**2. LIFE SENTENCES**

No inmate serving a life sentence shall be eligible for parole consideration until the life sentence has been commuted to a fixed term of years. **La. R.S. 15:574.4B**.

**3. PENDING CHARGES**

Inmates may not be paroled while there is a pending indictment or formal charge for any crime suspected of having been committed while incarcerated. **La. R.S. 15:574.4B**.

**4. SERIAL SEX OFFENDER**

No inmate sentenced as a serial sex offender shall be eligible for parole when the instant sex offense was committed on or after August 15, 1999. **(La. R.S. 15:537.(B), Act 1209 of the 1999 Regular Session)**.



**5. STATUTORILY NOT ELIGIBLE – “Please refer to the PED Hot List”**

Inmates convicted of certain crimes will not be eligible for parole consideration if the particular penalty statute under which they were convicted prohibits parole eligibility, even if the court fails to state that the sentence is imposed without benefit of parole. **(Effective August 15, 1999, pursuant to Act 94 of the 1999 Regular Session).**

- < **When the expressed orders of the sentencing court is less than the restrictions for parole than what the law requires, the Department will indicate parole eligibility in compliance with the applicable law.**
- < **When the expressed orders of the sentencing court are more than the restrictions for parole than what the law requires, the Department will indicate parole eligibility in compliance with the expressed orders of the sentencing court.**

**F. DNA – In accordance with DOC REG No. B-08-016**

**1. Conviction Before September 1, 1999 - Full Term Release -**

A person who was convicted, adjudicated or enters into a plea agreement resulting in a conviction for a felony sex offense or other specified offense before September 1, 1999, and who was still serving a term of confinement in connection therewith on that date shall not be released in any manner, including parole, diminution of sentence (GT/PS), good time, furlough, work release, pre-release or release or release in any other manner prior to the expiration of his maximum term of confinement (full term date) unless a DNA sample has been drawn. **La. R.S. 15:609.C (Act 737 of the 1997 Regular Session effective September 01, 1999) (Amended by Act 487 of the 2003 Regular Session effective June 20, 2003.)**

**2. Conviction on or after September 1, 1999 - No Release -**

Under no circumstance shall a person who is convicted, adjudicated or enters into a plea agreement resulting in a conviction on or after September 1, 1999, for a felony sex offense or other specified offense, be released in any manner including parole, diminution of sentence (GT/PS), good time, full term, furlough, work release, pre-release or release in any other manner after such disposition unless and until a DNA sample has been drawn. **(La. R.S. 15:609) (Act 737 of the 1997 Regular Session effective September 1, 1999) (Amended by Act 487 of the 2003 Regular Session, effective June 20, 2003.)**

## CRIMES OF VIOLENCE

"Crime of violence" means an offense that has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and that, by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense, an offense that involves the possession or use of a dangerous weapon or a crime designated by the sentencing court. The following enumerated offenses and attempts to commit any of them are included as "crimes of violence":

14:28.1	Solicitation for murder
14:30	First degree murder
14:30.1	Second degree murder
14:31	Manslaughter
14:34	Aggravated battery
14:34.1	Second degree battery
14:34.6	Disarming of a peace officer <b>Added in 2003 by Act 637 effective August 15, 2003</b>
14:34.7	Aggravated second degree battery <b>Added in 2003 by Act 637 effective August 15, 2003</b>
14:37	Aggravated assault
14:37.1	Assault by drive-by shooting
14:37.2	Aggravated assault upon a peace officer with a firearm <b>Added in 2003 by Act 637 effective August 15, 2003</b>
14:37.4	Aggravated assault with a firearm <b>Added in 2003 by Act 637 effective August 15, 2003</b>
14:38.1	Mingling harmful substances
14:40.2	Stalking <b>Added in 2003 by Act 637 effective August 15, 2003</b>
14:42	Aggravated rape
14:42.1	Forcible rape
14:43	Simple rape
14:43.1	Sexual battery
14:43.2	Second degree sexual battery <b>Added in 2004 by Act 676 effective August 15, 2004</b>
14:43.5	Intentional exposure to AIDS virus
14:44	Aggravated kidnapping
14:44.1	Second degree kidnapping
14:45	Simple kidnapping
14:51	Aggravated arson
14:55	Aggravated criminal damage to property
14:60	Aggravated burglary
14:64	Armed robbery

14:64.1 First degree robbery  
 14:64.2 Car jacking  
 14:64.3 Armed robbery; use of firearm; additional penalty **Added in 2003 by Act 637 effective August 15, 2003**  
 14:64.4 Second degree robbery **Added in 2004 by Act 651 effective August 15, 2004**  
 14:65 Simple robbery  
 14:65.1 Purse snatching  
 14:66 Extortion  
**14:78.1 Aggravated Incest Added in 2006 by Act 72 effective August 15, 2006**  
 14:89.1 Aggravated crime against nature  
 14:93.2.3 Second degree cruelty to juveniles **Added in 2003 by Act 637 effective August 15, 2003**  
 14:94 Illegal use of weapons or dangerous instrumentalities **Added in 1995 by Act 1223 effective August 15, 1995**  
 14:108.1C Aggravated flight from an officer **Added in 2003 by Act 637 effective August 15, 2003**  
 14:128.1 Terrorism ( 1<sup>st</sup> Ex.Sess.Act 128 June 16, 2002)

C.Cr.P.890.1 Crimes designated by the Court

**The Department considers “Principal Parties” (La. R.S. 14:24) to an enumerated crime of violence to have committed a crime of violence.**

**The Department does not consider “Accessory After the Fact”(La. R.S. 14:25) to be an enumerated crime of violence.**

**Enhanced Penalty - Court Discretion** - The court may sentence, in addition to any other penalty provided by law, any person who is convicted of a crime of violence or of an attempt to commit any of the crimes as defined in R.S. 14:2(13) with the exception of first degree murder, second degree murder, aggravated assault, aggravated rape and aggravated kidnapping, to an additional three years imprisonment when the crime victim is 65 years of age or older. **(Act 648 of the 2001 Regular Session).**

ATTACHMENT #2

**LIST OF SEX OFFENSES  
FOR THE PURPOSE OF DENYING GOOD TIME**

14:41	Rape
14:42	Aggravated Rape
14:42.1	Forcible Rape
14:43	Simple Rape
14:43.1	Sexual Battery
14:43.2	Second Degree Sexual Battery
14:43.3	Oral Sexual Battery
14:43.5	Intentional Exposure to AIDS Virus
14:78	Incest
14:78.1	Aggravated Incest
14:80	Felony Carnal Knowledge of a Juvenile
14:81	Indecent Behavior with Juveniles
14:81.1	Pornography Involving Juvenile
14:81.2	Molestation of a Juvenile
14:89(A) (1)	<b>Crime Against Nature Added in 2001, by Act 1206 Effective August 15, 2001</b>
14:89.1	Aggravated Crime Against Nature

A conviction for the attempt of the above offenses shall not be considered as a sex offender for the purpose of denying good time. (There is an exception in La. R.S. 15:571.3C(4) – Act 223 of the 1999 RS)

The Department considers "Principal Parties – (La. R.S. 14:24)" of any of the above offenses to be a sex offense.

**LIST OF SEX OFFENSES REQUIRING RESIDENCE PLAN APPROVAL  
PRIOR TO RELEASE ON SUPERVISION  
“INCLUDING ATTEMPTS”**

14:41	Rape
14:42	Aggravated Rape
14:42.1	Forcible Rape
14:43	Simple Rape
14:43.1	Sexual Battery
14:43.2	Aggravated Sexual Battery
14:43.3	Oral Sexual Battery
14:43.5	Intentional Exposure to AIDS Virus
14:78	Incest
14:78.1	Aggravated Incest
14:80	Felony Carnal Knowledge of a Juvenile
14:80.1	Misdemeanor Carnal Knowledge of a Juvenile
14:81	Indecent Behavior with Juveniles
14:81.1	Pornography Involving Juvenile
14:81.2	Molestation of a Juvenile
14:81.3	Computer-aided Solicitation for Sexual Purposes
14:89	Crime Against Nature
14:89.1	Aggravated Crime Against Nature
14:92(A) (7)	..... Contributing to the Delinquency of Juveniles
14:93.5	Sexual Battery of the Infirm Added
14:283	Video Voyeurism
14:283.1	Video Voyeurism Second or subsequent Conviction

The Department considers “Principal Parties – (La. R.S. 14:24)” of any of the above offenses to be a sex offense.